

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8**

IN THE MATTER OF	)	Docket No. CWA-08-2002-38
	)	
Mull Drilling Company, Inc.	)	<b>CONSENT AGREEMENT</b>
221 N. Main Street, Suite 300	)	
Wichita, Kansas 67201	)	
	)	
Respondent.	)	
_____	)	

**STATUTORY AUTHORITY**

This Consent Agreement is entered into between Complainant United States Environmental Protection Agency Region 8 (“EPA”) and Mull Drilling Company, Inc., ("Mull Drilling" or "Respondent") pursuant to Section 311(b)(6)(B)(ii) of the Clean Water Act (“CWA”), 33 U.S.C. § 1321(b)(6)(B)(ii), which authorizes the EPA Administrator to issue civil penalties for violations of CWA § 311(b)(3), 33 U.S.C. § 1321(b)(3), and the regulations set forth at 40 C.F.R. §§ 110 and 112. This authority has been properly delegated to the undersigned EPA officials. Complainant and Respondent (hereafter referred to collectively as “the Parties”), by their undersigned representatives, hereby consent and agree as follows.

**FACTUAL AND PROCEDURAL BACKGROUND**

1. On September 30, 2002, Complainant issued Respondent an Administrative Complaint and Notice of Opportunity for Hearing under Section 311(b)(6)(B)(i) of the Clean Water Act (the Act), 33 U.S.C. § 1321(b)(6)(B)(i), as amended by the Oil Pollution Act of 1990 (herein, the “Complaint”), for alleged violations of the Act and related Spill Prevention, Control and Countermeasures requirements set forth at 40 C.F.R. Part 112 at Respondent’s Kern A Lease

Tank Battery, an onshore production facility located in Cheyenne County, Colorado. The Complaint proposed a civil penalty for the violations alleged therein.

2. Respondent admits the jurisdictional allegations of the Complaint and the Consent Agreement.

3. Respondent neither admits nor denies the specific factual allegations of the Complaint and the Consent Agreement.

4. Respondent waives its right to a hearing before any tribunal, to contest any issue of law or fact set forth in the Complaint or this Consent Agreement.

5. This Consent Agreement contains all terms of the settlement agreed to by the Parties. Upon incorporation into a Final Order, this Consent Agreement applies to and is binding upon Complainant and Respondent, Respondent's officers, directors, employees, agents and all persons acting under or for Respondent, until such time as the civil penalty required under paragraph no. 9 has been paid. Any change in ownership or corporate status of Respondent including, but not limited to, any transfer of assets or real or personal property shall not alter Respondent's responsibilities under this agreement.

6. Respondent is in current compliance with the CWA and applicable SPCC regulations.

7. Pursuant to § 311(b)(8) of the CWA, 33 U.S.C. § 1321(b)(8), EPA determined that an appropriate civil penalty to settle this action is in the amount of Twenty Seven Thousand Five Hundred dollars (\$27,500) after considering the seriousness of the violations, the economic benefit to the violator, the degree of culpability, any other penalty for the same incident, any prior

history, Respondent's efforts to mitigate the effects of a discharge, the economic impact of the penalty on the violator, and any other matters as justice may require.

8. Respondent consents and agrees to pay the amount of Twenty Seven Thousand Five Hundred dollars (\$27,500.00) to resolve all counts alleged in the Complaint.

**TERMS OF SETTLEMENT**

9. Respondent shall remit a cashier's or certified check in the amount of Twenty Seven Thousand Five Hundred Dollars (\$27,500.00) within thirty (30) days of the effective date of the Final Order made payable to "Oil Spill Liability Trust Fund" to:

Jane Nakad  
Technical Enforcement Program (8ENF-T)  
U.S. EPA Region VIII  
999 18th Street, Suite 300  
Denver, CO 80202-2466

Respondent shall write the docket number and name of the facility on the check.

10. Respondent agrees to mail a copy of the check simultaneously to the following:

Amy Swanson (8ENF-L)  
U.S. EPA Region VIII  
999 18th Street, Suite 300  
Denver, CO 80202-2466

and to:

Tina Artemis, Regional Hearing Clerk (8RC)  
U.S. EPA Region VIII  
999 18<sup>th</sup> Street, Suite 300  
Denver, CO 80202-2466

11. Respondent agrees that in the event that payment is not received by the date specified in paragraph 9 above, interest shall accrue from the due date at a rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717 and will continue to accrue until payment

Mull Drilling Company, Inc. - Consent Agreement

is received in full.

12. In addition, Respondent agrees to pay a handling charge of fifteen dollars (\$15.00) after the first 30 days that the payment, or any portion thereof, is overdue, and each subsequent thirty-day period that the penalty remains unpaid. In addition, a six percent (6%) per annum penalty shall be assessed on any unpaid principal amount not paid within 90 days after the date of the Final Order. Payments are first applied to accrued interest, penalty and/or handling charges; the balance is then applied to the outstanding principal amount.

13. Respondent agrees that the penalty paid under this Consent Agreement may not be claimed as a federal or other tax deduction or credit.

#### **GENERAL PROVISIONS**

14. Nothing in this Consent Agreement shall relieve Respondent of the duty to comply with the Act and its implementing regulations.

15. Failure by Respondent to comply with any of the terms of this Consent Agreement shall constitute a breach and may result in referral of the matter to the Department of Justice for enforcement of this Consent Agreement and for such other relief as may be appropriate.

16. Nothing in this Consent Agreement shall be construed as a waiver by EPA of its authority to seek costs or any appropriate penalty associated with any collection action instituted if Respondent fails to perform pursuant to the terms of this Consent Agreement.

17. Respondent's undersigned representative certifies that he or she is fully authorized to enter into the terms and conditions for this Consent Agreement and to bind the party he or she represents to the terms and conditions of this Consent Agreement.

18. The Parties agree to bear their own costs and attorneys fees in connection with this matter.

19. The Parties agree to forward this Consent Agreement to the Regional Judicial Officer with a request that it be incorporated into a Final Order.

20. This Consent Agreement, upon incorporation into a Final Order by the Regional Judicial Officer and upon full payment of the agreed-upon amount by the Respondent, shall constitute a complete and full settlement of the specific violations alleged in the Complaint as well as any possible additional allegations of environmental violations that may be associated with this incident.

**SO CONSENTED AND AGREED TO BY:**

UNITED STATES ENVIRONMENTAL  
PROTECTION AGENCY, REGION VIII  
Complainant.

Date: June 9, 2003

SIGNED

Elisabeth Evans, Director  
Technical Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice

Date: 9 June 2003

David J. Janik

Michael T. Risner, Director  
David J. Janik, Supervisory Attorney  
Legal Enforcement Program  
Office of Enforcement, Compliance  
and Environmental Justice

MULL DRILLING COMPANY, INC.  
Respondent.

Date: 5/29/03

**SIGNED**  
Jennifer Mull, Executive Vice President

## CERTIFICATE OF SERVICE

The undersigned certifies that the original of the attached **Consent Agreement** in the matter of **Mull Drilling Company, Inc., DOCKET NO.: CWA-08-2002-38** was filed with the Regional Hearing Clerk on June 10, 2003.

Further, the undersigned certifies that a true and correct copy of the document was delivered to Amy Swanson, Enforcement Attorney, U.S. EPA - Region VIII, 999 18<sup>th</sup> Street - Suite 300, CO 80202-2466. True and correct copies of the aforementioned document was placed in the United States Mail on June 16, 2003.

Jennifer Mull  
Executive Vice President  
Mull Drilling Co., Inc.  
221 N. Main Street, Suite 300  
Wichita, KS 67201

The Honorable Susan Biro  
Chief Administrative Law Judge (Mail Code: 1900L)  
U.S. Environmental Protection Agency  
Ariel Rios Building  
Washington, DC 20460

and

Commander  
CG-NPFC  
Finance Center (OGR)  
1430 A Kristina Way  
Chesapeake, VA 23326

June 16, 2003

**SIGNED** \_\_\_\_\_  
Eduardo J. Perez  
Acting Regional Hearing Clerk





## **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that the original and one copy of the CONSENT AGREEMENT was hand-carried to the Regional Hearing Clerk, EPA Region 8, 999 18<sup>th</sup> Street, Suite 300, Denver, Colorado, and that a true copy of the same was sent via regular mail to:

Jennifer Mull, Executive Vice President

Mull Drilling Company, Inc.

P.O. Box 2758

221 N. Main Street, Suite 300

Wichita, KS 67201-2758

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Date

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Judith McTernan